

<b>Examiner-Initiated Interview Summary</b>		Application No. 10/816,238	Applicant(s) ASHER ET AL.
Examiner Robert M. Pond		Art Unit 3625	

  

All Participants:

(1) Robert M. Pond.

(2) Ms. Ruth Ma, #55,414.

Date of Interview: 25 February 2009

Type of Interview:

☒ Telephonic

☐ Video Conference

☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☒ No

If Yes, provide a brief description:

Part I.

Rejection(s) discussed:

*101*

Claims discussed:

*Claim 11, 41, 53 and pending dependents*

Prior art documents discussed:

*None*

Part II.

**SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:**

*Step 285 embodiments in context of Fig. 2.*

Part III.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.

☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

Status of Application: Pending

(3) \_\_\_\_\_

(4) \_\_\_\_\_

Time: 12:33 PM

/Robert M. Pond/

Primary Examiner, Art Unit 3625

(Applicant/Applicant's Representative Signature – if appropriate)

Pond, Robert

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From: Ma, Ruth [RMa@cantor.com]  
Sent: Wednesday, February 25, 2009 12:33 PM  
To: Pond, Robert  
Subject: RE: 10/816238

If your schedule permits, we can talk as early as next week. Do we need to wait until after you issue the new office action? Just let me know what works best for you!

Thanks,

Ruth

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From: Pond, Robert [mailto:Robert.Pond@USPTO.GOV]  
Sent: Wednesday, February 25, 2009 12:19 PM  
To: Ma, Ruth  
Subject: RE: 10/816238

Thanks for getting back to me. Let's reopen. It will give us more time to work through the issues. Send me an email when you are ready to pick back up again and we'll schedule some time.

Rob Pond

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From: Ma, Ruth [mailto:RMa@cantor.com]  
Sent: Wednesday, February 25, 2009 12:14 PM  
To: Pond, Robert  
Subject: RE: 10/816238

Dear Examiner Pond,

Thank you for your email. I really appreciate that you are taking the time to work with me on our claims.

It looks like more and more issues are surfacing. I'm starting to wonder if we are venturing outside the realm of an Examiner's Amendment, and should pursue these matters in a non-final action. My understanding of MPEP 1302.04 is that an Examiner's Amendment is limited to correcting typographical errors and informalities. I'm happy to work on a resolution this week, if the changes are limited to minor informalities (e.g., making method claim 11 in compliance with section 101). But, if you think we need changes beyond that, then it probably would be best for you to reopen prosecution via the non-final action. What do you think?

*Re: Claims 35 and 36.*

These claims are currently cancelled. I'm unclear why it is necessary to amend the specification to include the cancelled claims.

*Re: Fig. 2*

2/25/09

I also looked into the figures issue. In my reading of 37 CFR §1.81(a), it states that, “applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented...”.

Paragraph 39 describes the various embodiments of decision step 285 (“Is Silent Auction Over”). One of those embodiments is the use of a tiered system, which paragraph 39 describes in detail. Thus, a flowchart of the tiered system would not be “necessary for the understanding of the subject matter.”

I am available all day today, so please feel free to call me anytime. Again, I appreciate the time that you are taking to work with us on our claims!

Many thanks!

Ruth Ma Swilling

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Ruth Ma Swilling, Esq.

*Attorney*

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From : Pond, Robert [mailto:Robert.Pond@USPTO.GOV]

Sent : Tuesday, February 24, 2009 3:48 PM

To : Ma, Ruth

Subject : 10/816238

Hi Ms. Ma,

A keyword search produced hits on paragraphs 0030 and 0039 of the published specification pertaining to time/period/interval, etc. Para 0030 is general whereas para 0039 discloses STEP 285 discussed during our conversations today. Also, you may want to look at originally filed claims 35 and 36 which is original subject matter pertaining to first count of bids/first time interval and second count of bids/second time interval.

Spec should be amended to incorporate this subject matter into para 0039.

To summarize our options:

Withdraw finality and issue a non-final based at least on 101 and then work issues.

Work over the next couple of days to work 101 and allowable subject matter issues. Should we not be able to reach agreement this week, then issue the non-final as noted above.

Rob Pond

Primary Examiner

571-272-6760

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2/25/09

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